

For information regarding sales of computer goods and services, please see the Department's regulation on "Computer Software" at 86 Ill. Adm. Code 130.1935 available on the Department's website. (This is a GIL.)

April 3, 2006

Dear Xxxxx:

This letter is in response to your letter dated January 31, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am in need of your expertise and was advised to write you a letter by the Illinois Department of Revenue Sales Tax department. I am a reseller of computer goods and services. A few manufactures [sic] I represent offer maintenance contracts along with their software and/or hardware products. The contracts are typically sold within initial sale of that product, therefore are assessed the appropriate sales tax. However, the question is when these contracts come up for renewal do I charge sales tax on the renewal contract?

The maintenance contracts are typically designed as follows:

1. Customer is entitled to new software updates and versions as they become available from the manufacturer.
2. Customer is entitled to free tech support during the duration of the contract
3. The customer is entitled to hardware replacement if there is equipment failure. The customer usually receives the same make and model if a replacement is needed, however, if that make and model is discontinued they will receive the latest model available.

To tax or not to tax, that is the question! I appreciate your assistance. Please feel free to contact me.

DEPARTMENT'S RESPONSE

For general information regarding sales of computer goods and services, we suggest you take a look at the Department's regulation "Computer Software" at 86 Ill. Adm. Code 130.1935 available on the Department's website. The Department's letters regarding computer software are also available for review on the Department's website. For example, you may find letter ST 97-0422-GIL helpful.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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